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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 STRIKE 3 HOLDINGS, LLC,
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13 Plaintiff,

14 vs.

15 JOHN DOE SUBSCRIBER ASSIGNED IP
16 ADDRESS 104.9.121.87,
Defendant.

Case No. 5:18-cv-00076-SVK

~~PROPOSED~~ **ORDER ON EX-PARTE
MOTION FOR LEAVE TO SERVE
THIRD PARTY SUBPOENA PRIOR TO
A RULE 26(F) CONFERENCE**

Re: Dkt. No. 8 (AS MODIFIED)

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18 **THIS CAUSE** came before the Court upon Plaintiff's Motion for Leave to Serve a
19 Third Party Subpoena Prior to a Rule 26(f) Conference (the "Motion"), and the Court being
20 duly advised does hereby:

21 **FIND, ORDER AND ADJUDGE:**

22 Plaintiff's ex parte motion for leave to serve a third party subpoena on AT&T Inc. before the
23 Rule 26(f) conference is GRANTED on the following conditions:

- 24 ▪ The subpoena shall only request the actual name and address of the subscriber to whom
25 AT&T Inc. assigned the above-captioned IP address during the time frame from 14 DAYS
26 BEFORE the date of the first alleged infringing act to 14 DAYS AFTER the date of the last
27 alleged infringing act as set forth in Exhibit A to the Complaint.

- 1 ▪ Plaintiff shall attach a copy of this order to the subpoena.
- 2 ▪ Plaintiff may not use any information disclosed by AT&T Inc. for any purpose other than
- 3 protecting its rights as set forth in the Complaint.
- 4 ▪ AT&T Inc. shall, in turn, serve a copy of the **subpoena and a copy of this order** on the
- 5 subscriber within **14 DAYS** of the date of service on AT&T Inc.
- 6 ▪ The return date on the subpoena shall be no less than **45 DAYS** from the date of service on
- 7 AT&T Inc. AT&T Inc. shall not disclose any identifying information about defendant to
- 8 Plaintiff prior to the return date or prior to the resolution of any motions to quash or modify
- 9 the subpoena.
- 10 ▪ Defendant John Doe will have **30 DAYS** from the date of service upon him or her to file any
- 11 motions contesting the subpoena (including a motion to quash or modify the subpoena) with
- 12 the Court for the district where compliance with the subpoena is required.
- 13 ▪ AT&T Inc. shall preserve any subpoenaed information pending the resolution of any timely-
- 14 filed motion to quash or modify the subpoena.
- 15 ▪ If AT&T Inc. produces information regarding the Doe Defendant to Plaintiff, Plaintiff shall
- 16 not publicly disclose that information until Defendant has an opportunity to file a motion
- 17 with this Court to be allowed to proceed in this litigation anonymously and that motion is
- 18 ruled on by the Court. If Defendant fails to file a motion for leave to proceed anonymously
- 19 within **30 DAYS** after his or her information is disclosed to Plaintiff, this limited protective
- 20 order will expire. If Defendant includes identifying information in his or her request to
- 21 proceed anonymously, the Court finds good cause to order the papers filed under seal until
- 22 the Court has an opportunity to rule on the request. *See Digital Sin*, 2011 WL 5362068, at
- 23 *4. In the event Defendant's request is placed under seal, the court will direct Defendant to
- 24 submit a copy of the under-seal request to Plaintiff and will ensure that Plaintiff has time to
- 25 respond.
- 26 ▪ ~~In its proposed order, Plaintiff also sought leave to serve subpoenas on "any service provider~~
- 27 ~~that is identified in response to a subpoena as a provider of Internet services to one of the~~

1 ~~Defendants.~~ Plaintiff must seek leave to serve subpoenas on any service provider other than
2 AT&T Inc. in this matter.

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4 **SO ORDERED.**

5 Dated: January 30, 2018

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8 SUSAN VAN KEULEN
9 United States Magistrate Judge
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